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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,535	09/29/2003	Alan F. Wolfschoon-Pombo	67166	1849

48940 7590 05/01/2006

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EXAMINER	
WONG, LESLIE A	
ART UNIT	**PAPER NUMBER**
1761	

DATE MAILED: 05/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/673,535	WOLFSCHOON-POMBO ET AL.	
	Examiner	Art Unit	
	Leslie Wong	1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 December 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-13* is/are pending in the application.

4a) Of the above claim(s) *8-13* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-7* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 2, 2005 has been entered.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 3, and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nielsen (WO 97/06064) as evidenced by Nielsen (WO 9602422) in view of Nakano (JP 08-196196), Reghele et al. (US 6351927 B1), and Jensen et al. (US 4919951) for the reason set forth in rejecting the claims in the last Office action. The amendments to the claims are not seen to influence the conclusion of unpatentability previously set forth.

Regarding claims 1, 3, and 4, Nielsen '064 teaches filling fish into a rectangular carton package that includes two short and two long side walls, and a bottom and cover panel wherein the food is filled onto the bottom panel, the cover is placed over the carton and the packaged food substance is frozen in a freezer frame in a shelf/plate freezer (Page 2, line 27 to Page 4, line 5, Page 6, line 16 to Page 7, line 22, Page 9, lines 20-25). Nielsen '064 further teaches Nielsen '422 is incorporated by reference.

As evidenced by '422, such packages are also known to contain minced fish meat. However, '064 is silent in teaching extruding a plate of fish material as recited in claims 1 and 4, the plate is extruded with an extruding nozzle and cutter mechanism wherein the plate has a width corresponding to the extrusion nozzle that is smaller than a length of the plate as recited in claim 1, and that the carton is transported via a conveyor that is synchronized with the extruder as recited in claim 3.

Nakano teaches a method of packaging minced meat products that provides consistent weight for each package. Nakano uses an extruder with a nozzle (e.g. item 11) in combination with a cutter mechanism (e.g. item 4) and a weigh conveyor so that one may sever the extruded minced meat product into plates of a desired weight to continuously fill packages having a uniform weight. Thus, the length of the extruded meat product, or plate (e.g. item A in the figures), depends on the desired weight (i.e. the continually extruded meat product is cut when the desired plate weight is reached), since the width of the extruded meat product will correspond to width of the extrusion nozzle due to the fact that it exits the extrusion nozzle as a continuous mass. Nakano further teaches empty packages are provided via a conveyor that is synchronized with the discharge of the extruder to additionally assure uniform weight in each package (Paragraphs 1-12,15-22, Figures).

Reghele et al. (US 6351927 B1) and Jensen et al. (US 4919951) both teach synchronized extruding, cutting, and packing of meat plates and are both relied on as evidence that the length of an extruded meat plate relative to the width depends on the desired weight of the meat (e.g. Reghele et al. teach ground meat with a length larger

than the width, while Jensen et al. teach meat slices with a length shorter than the width). See the Figures of both.

Therefore, it would have been obvious to modify Nielsen '064 and utilize an extruder with nozzle in combination with a cutter mechanism and a weigh conveyor along with empty packages, such as the carton in the freezer frame, positioned on a conveyor that is synchronized with the discharge of the extruder to package a plate of unfrozen food into the cartons since Nakano teaches utilizing an extruder, cutter, and synchronized empty package conveyor/extruder assembly assures uniform weight in minced meat package and this would improve the uniformity of the fish carton packages of Nielsen '064. To further select any particular length of the plate of food (e.g. such that the width of the plate is smaller than the length of the unfrozen plate) would have been obvious, depending on the nozzle width of the extruder relative to the desired weight of the plate of food since the plate of Nakano is severed across the width when a desired weight is achieved (i.e. the resulting length of the plate depends on the weight desired) and Reghele et al. and Jensen are relied on as evidence of providing meat in varying lengths depending on the desired weight of the plate.

It is further noted that the unfrozen plate of the food substance is obviously extruded toward the cover panel and is positioned on the bottom panel of the carton packaging because the same method steps are used.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nielsen (WO 97/06064) as evidenced by Nielsen (WO 9706064) in view of Nakano (JP 08-

196196) and Reghele et al. (US 6351927 B1) and Jensen et al. (US 4919951), as applied to claims 1, 3, and 4, above, further in view of Vogt (US 1953520).

Regarding claim 2, Nielsen '064 teaches a carton with the lid attached to a long end, but is silent in teaching a lid attached to a short end. Vogt also teaches a method freezing fish in cartons. However, Vogt teaches providing a particularly shaped carton that increases the cooling surface area of the sides of the carton. This type of carton includes a cover panel is connected via a short end panel (Page 1, lines 1-40, Page 1, line 110 to Page 2, line 7, Page 3, lines 70 to 120). Therefore, it would have been obvious to further modify Nielsen '064 and include a carton having a cover panel connected via a short end panel since Vogt teaches this type of carton is used to provide increased cooling surface area on the sides of the carton and provide more efficient cooling.

Claims 5,6,and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nielsen (WO 97/06064) as evidenced by Nielsen (WO 9602422) in view of Nakano (JP 08-196196) and Reghele et al. (US 6351927 B1) and Jensen et al. (US 4919951) as applied to claims 1, 3, and 4 above, further in view of Battistella (US 4907471).

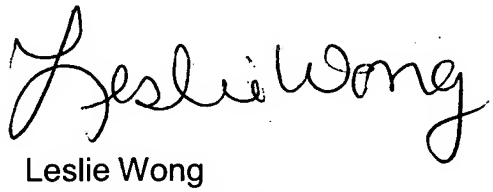
Regarding claims 5, 6 and 7, as discussed above in the rejection of claims 1, 3, and 4, modified Nielsen '064 utilizes a conveyor system, a shelf freezer, and freezer frames, but is silent in teaching utilizing a pressure applied the shelf freezer plates such that pressure is applied to the top and bottom panels of the carton, as recited in claim 5, and that the conveyor is provided with devices, such as freezer frames, that keep the side panels perpendicular to the bottom panel as recited in claims 6 and 7.

Battistella also teaches freezing food products with shelf freezers. However, Battistella teaches that unlike prior art methods the shelf freezer utilizes plates to press both panels of the food product cartons or product containing freezer frames, utilizes a conveyor system (i.e. an automatic method), and shelves/plates that can be adjusted for the height of the food product (Column 1, line 43 to Column 2, line 40, Column 4, lines 10-65). Therefore, it would have been further obvious to include a shelf freezer with plates to press both panels of the food product cartons with plates, as recited in claim 5, since Nielsen '064 teaches cartons in freezer frames for shelf freezers and Battistella teaches a shelf freezer that not only provides pressure to the top and bottom of a freezer frame, but also is capable of being synchronized with an automatic conveyor system, such as the one of modified Nielsen '064 discussed in the rejection of claims 1,3 and 4, and is able to be adjusted for any particular frame/carton height. It would have been further obvious to utilize the frame/carton combination of Nielsen '064 as the devices for maintaining the shape of the cartons while the cartons are being transported and charged with food since Battistella teaches freezer frames are transferred to the shelf freezer with a conveyor. Since the cartons are transferred to the filling station via a conveyor, including placing the cartons inside the freezer frames prior to filling would not only eliminate a separate freezer frame fill step, but would allow the filling station to be connected to the freezer system via one conveyor and improve overall efficiency.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leslie Wong whose telephone number is 571-272-1411. The examiner can normally be reached on Tuesday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Leslie Wong
Primary Examiner
Art Unit 1761

LAW
April 27, 2006